

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
v.) Case No. 1:20-cr-82
)
)
JOHN WILLIAM KIRBY KELLEY,) Hon. Liam O'Grady
)
)
 Respondent.) Sentencing: Nov. 24, 2020

UNOPPOSED MOTION TO CONTINUE SENTENCING

Defendant John William Kirby Kelley respectfully moves this Court to continue the sentencing hearing currently scheduled for November 24, 2020, to Tuesday, January 26, 2021, or as soon thereafter as is convenient for the Court. Defense counsel has conferred with government counsel, who does not oppose the relief requested herein. In further support of this motion, the defense states:

1. On July 21, 2020, Mr. Kelley appeared before this Court and pled guilty to one count of conspiring to make interstate threats, in violation of 18 U.S.C. §§ 371 and 875(c). Mr. Kelley has remained incarcerated at the Alexandria Adult Detention Center since his arrest on January 10, 2020. Sentencing was scheduled for November 24, 2020.
2. The defense has been diligently working to prepare for Mr. Kelley's sentencing. However, due to a confluence of events, the defense respectfully moves for additional time to prepare for sentencing.

3. First, both defense counsel have a felony jury trial beginning on November 19, 2020. As well, one of Mr. Kelley's attorneys is scheduled to begin a felony jury trial before this Court shortly thereafter on December 1, 2020.
4. Second, additional legal issues have arisen in light of the draft pre-sentence report. Counsel believe additional study is necessary prior to deciding the proper response to these issues.
5. Third, defense counsel and Mr. Kelley require additional time to identify and line up services in the community to assist Mr. Kelley's transition out of custody upon his eventual release. Mr. Kelley is only 20 years old. He has an exceptionally difficult relationship with his mother, who has distanced herself from him since his arrest and has indicated that she will not assist him upon his release. Until recently, Mr. Kelley had not seen his father in years, though they have now reconnected and speak regularly, due, in part, to Mr. Kelley's separation from his mother.
6. Given the circumstances, Mr. Kelley, who has a diagnosis of autism spectrum disorder, has been doing reasonably well while incarcerated at the Alexandria Adult Detention Center. He has a job as a unit worker and is closely engaged with counsel.
7. Until his arrest, Mr. Kelley had lived almost his entire life with his mother, step-father and younger brothers—leaving home for a brief period at Old Dominion University, and then moving to his uncle's home for a few weeks prior to his arrest. His release from incarceration will be a transition for

him to independent living. To assist him in being successful, Mr. Kelley and counsel are working through the Fairfax Community Services Board to secure transitional supports, including with housing and vocational assistance. Mr. Kelley has participated in several meetings to advance this process and has been found eligible for a Developmental Disabilities waiver, but is currently on the waitlist for services.

8. At a sentencing, the defense intends to present this Court with additional information regarding Mr. Kelley's plan for a successful post-release transition.
9. Counsel have discussed the relief requested herein with counsel for the government, who does not object to the proposed continuance.

Accordingly, Mr. Kelley respectfully moves this Court to continue his sentencing to Tuesday, January 26, 2021, or a date as soon thereafter as is convenient for the Court. A proposed order is attached for the Court's convenience.

Respectfully submitted,

JOHN WILLIAM KIRBY KELLEY
By Counsel,

Jeremy C. Kamens,
Federal Public Defender

By: _____ /s/
Cadence A. Mertz
Va. Bar No. 89750
Nathaniel Wenstrup
Admitted *pro hac vice*
NY Bar No. 5201371
Assistant Federal Public Defenders
Office of the Federal Public Defender

1650 King Street, Suite 500
Alexandria, Virginia 22314
(703) 600-0840 (tel)
(703) 600-0880 (fax)
Cadence.Mertz@fd.org

CERTIFICATE OF SERVICE

I certify that on October 30, 2020, I filed the foregoing using the CM/ECF system, which will electronically serve copies on counsel of record.

/s/
Cadence A. Mertz
Va. Bar No. 89750
Assistant Federal Public Defender
Office of the Federal Public Defender
1650 King Street, Suite 500
Alexandria, Virginia 22314
(703) 600-0840 (tel)
(703) 600-0880 (fax)
Cadence.Mertz@fd.org